

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

September 28, 2010

Lyle W. Cayce
Clerk

No. 09-30944

Summary Calendar

DAVID E. KATES,

Plaintiff-Appellant

v.

LIEUTENANT MICIELI; CORRECTIONAL OFFICER MANDALFO;
GREGORY KIZZIAH,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:09-CV-1447

Before KING, BENAVIDES, and ELROD, Circuit Judges.

PER CURIAM:*

David E. Kates, federal prisoner # 30428-077, filed a civil rights complaint against several prison officials related to the use of bed restraints. Kates filed an emergency motion for a temporary restraining order (TRO) seeking to have the defendants ordered to treat inmates humanely. The district court denied the application for a TRO. Kates appealed.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

This Court must examine the basis of its jurisdiction, on its own motion, if necessary.” *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). This court does not have appellate jurisdiction over the denial of an application for a TRO. *Faulder v. Johnson*, 178 F.3d 741, 742 (5th Cir. 1999) (citing *In re Lieb*, 915 F.2d 180, 183 (5th Cir. 1990)). As this appeal concerns only the denial of an application for a TRO, the court is without jurisdiction over the appeal.

APPEAL DISMISSED.